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OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
SIXTIETH LEGISLATURE

ONE HUNDRED EIGHTH LEGISLATIVE DAY
WEDNESDAY, APRIL 29, 2009

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Siddoway and Acting Senator Thorson, absent and formally excused by the Chair; and Senators Pearce and Werk, absent and excused.

Prayer was offered by Chaplain Henry Webb.

The Pledge of Allegiance was led by Whitney Schut, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 28, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Pearce and Werk were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

April 29, 2009

The FINANCE Committee reports out [H 199](#) with the recommendation that it do pass.

CAMERON, Chairman

[H 199](#) was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

April 28, 2009

Dear Mr. President:

I return herewith Enrolled [S 1204](#) and [S 1215](#), which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1204](#) and [S 1215](#) were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[S 1233](#), [S 1234](#), [S 1235](#), [S 1236](#), [S 1237](#), [S 1238](#), [S 1239](#), [S 1240](#), [S 1241](#), [S 1242](#), [S 1243](#), [S 1244](#), and [S 1245](#), by Finance Committee, were read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, Acting President Darrington called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out [H 303](#), as amended in the Senate, without recommendation, amended as follows:

SENATE AMENDMENT TO H 303, aaS AMENDMENT TO THE BILL

On page 3 of the printed bill, following line 6, insert:

"SECTION 3. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the period July 1, 2009, through June 30, 2010, only, an amount of local maintenance match moneys normally required to be allocated for the maintenance and repair of student-occupied buildings may be spent on other one-time, nonpersonnel costs, at the discretion of the school district. Said amount shall be determined by the State Department of Education as follows:

(a) Subtract from the local maintenance match requirement all plant facility levy funds levied for tax year 2009.

(b) Subtract from the balance of any funds remaining after the subtraction provided for in subsection (a) of this section, any additional funds necessary to fully remediate all recommendations and code violations identified in the most recent inspection of each student-occupied building conducted by the Division of Building Safety, excluding any recommendations for which the least expensive remediation solution is the replacement of the building.

(c) Divide the balance of any funds remaining after the calculation provided for in subsection (b) of this section, by two (2).

School districts shall furnish information pursuant to the provisions of this section, as may be required by the State Department of Education."; and renumber sections accordingly.

CORRECTION TO TITLE

On page 1, in line 9, following "ATTENDANCE" insert: "; AND TO PROVIDE FOR ALTERNATIVE USES OF CERTAIN SCHOOL BUILDING MAINTENANCE FUNDS".

The Committee also has [S 1055](#), [S 1092](#), [S 1095](#), [S 1147](#), and [S 1087](#) under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Werk, the report was adopted by voice vote.

[H 303](#), as amended in the Senate, as amended in the Senate, was referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Kelly, by voice vote the Senate recessed at 12:20 p.m. until the hour of 2 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 2 p.m., pursuant to recess, Acting President Darrington presiding at the request of the President.

Roll call showed all members present except Senator Siddoway and Acting Senator Thorson, absent and formally excused by the Chair; and Senators Andreason, Cameron, and Lodge, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

April 29, 2009

The JUDICIARY AND RULES Committee reports that Senate amendments to [H 303](#), as amended in the Senate, has been correctly printed.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

April 29, 2009

The Honorable Brad Little
President of the Senate
Idaho Legislature

Dear Mr. President:

I hereby advise you that I am transmitting today to the Office of the Secretary of State, the following Senate Bills, which will be allowed to become law without my signature:

[S 1208](#) and [S 1219](#)

within the time limited by law.

As Always - Idaho, *Esto Perpetua*
/s/ C.L. "Butch" Otter
Governor of Idaho

The correspondence was ordered filed in the office of the Secretary of the Senate.

Senators Andreason, Cameron, and Lodge were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

April 29, 2009

Dear Mr. President:

I transmit herewith [H 323](#), [H 324](#), [H 325](#), [H 326](#), [H 327](#), [H 330](#), [H 331](#), [H 332](#), [H 333](#), and [H 335](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 323](#), [H 324](#), [H 325](#), [H 326](#), [H 327](#), [H 330](#), [H 331](#), [H 332](#), [H 333](#), and [H 335](#) were filed for first reading.

April 29, 2009

Dear Mr. President:

I return herewith [S 1216](#), which has passed the House.

ALEXANDER, Chief Clerk

[S 1216](#) was referred to the Judiciary and Rules Committee for enrolling.

April 29, 2009

Dear Mr. President:

I transmit herewith Enrolled [H 262](#), as amended in the Senate, and [H 256](#), as amended in the Senate, as amended in the Senate, for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [H 262](#), as amended in the Senate, and [H 256](#), as amended in the Senate, as amended in the Senate, and ordered them returned to the House.

April 29, 2009

Dear Mr. President:

I return herewith Enrolled [S 1183](#), [S 1224](#), [S 1226](#), [S 1229](#), [S 1230](#), and [S 1231](#), which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1183](#), [S 1224](#), [S 1226](#), [S 1229](#), [S 1230](#), and [S 1231](#) were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

[H 303](#), as amended in the Senate, as amended in the Senate, by Ways and Means Committee, was read the first time at length and filed for second reading.

[H 323](#), [H 324](#), [H 325](#), [H 326](#), [H 327](#), [H 330](#), [H 331](#), [H 332](#), and [H 333](#), by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

[H 335](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

April 29, 2009

The FINANCE Committee reports out [H 323](#), [H 324](#), [H 325](#), [H 326](#), and [H 327](#) with the recommendation that they do pass.

CAMERON, Chairman

[H 323](#), [H 324](#), [H 325](#), [H 326](#), and [H 327](#) were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 323](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 323](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Smyser, Stegner, Winder. Total - 26.

NAYS—Bilyeu, Herzfeld (Bock), Kelly, LeFavour, Sagness (Malepeai), Schroeder, Werk. Total - 7.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 323](#) passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 324](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 324](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39 (H), Senator Keough disclosed a possible conflict of interest under applicable law.

Pursuant to Senate Rule 39 (H), Senator Smyser disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Smyser, Stegner, Winder. Total - 26.

NAYS—Bilyeu, Herzfeld (Bock), Kelly, LeFavour, Sagness (Malepeai), Schroeder, Werk. Total - 7.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 324](#) passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 325](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 325](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Smyser, Stegner, Winder. Total - 26.

NAYS—Bilyeu, Herzfeld (Bock), Kelly, LeFavour, Sagness (Malepeai), Schroeder, Werk. Total - 7.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 325](#) passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 326](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 326](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Bilyeu arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Herzfeld (Bock), Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Smyser, Stegner, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 326](#) passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 327](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 327](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Herzfeld (Bock), Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Smyser, Stegner, Werk, Winder. Total - 32.

NAYS—Schroeder. Total - 1.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 327](#) passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of [H 199](#) were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

[H 199](#) was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Herzfeld (Bock), Hill, Jorgenson, Kelly, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Smyser, Stegner, Werk, Winder. Total - 32.

NAYS—LeFavour. Total - 1.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 199](#) passed, title was approved, and the bill ordered returned to the House.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, [H 311](#) was placed before the Senate for final consideration at this time.

[H 311](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes (Geddes), Goedde, Hammond, Heinrich, Herzfeld (Bock), Hill, Jorgenson, Kelly, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Smyser, Stegner, Werk, Winder. Total - 32.

NAYS—LeFavour. Total - 1.

Absent and excused—Siddoway, Thorson (Stennett). Total - 2.

Total - 35.

Whereupon the President declared [H 311](#) passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

Messages from the House

April 29, 2009

Dear Mr. President:

I transmit herewith [H 372](#), which has passed the House.

ALEXANDER, Chief Clerk

[H 372](#) was filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

[H 372](#), by Ways and Means Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

April 29, 2009

The FINANCE Committee reports out [H 330](#), [H 331](#), [H 332](#), and [H 333](#) with the recommendation that they do pass.

CAMERON, Chairman

[H 330](#), [H 331](#), [H 332](#), and [H 333](#) were filed for second reading.

April 29, 2009

The JUDICIARY AND RULES Committee reports that Enrolled [S 1204](#) and [S 1215](#) were delivered to the Office of the Governor at 2:50 p.m., April 29, 2009.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Werk, by voice vote, the Senate adjourned at 6:02 p.m. until the hour of 10 a.m., Thursday, April 30, 2009.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary